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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,387	06/27/2001	Yoshihiro Takashimizu	010803	2563

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EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/891,387	Applicant(s) TAKASHIMIZU ET AL.	
	Examiner Dohm Chankong	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- 1> This action is in response to Applicant's remarks, filed 12.19.2006. Claims 1-5, 7-9 and 12-19 are presented for further examination.
- 2> This is a final rejection.

Response to Arguments

I. THE §112, FIRST PARAGRAPH AND SECOND PARAGRAPH REJECTIONS ARE WITHDRAWN.

Applicant's arguments with respect to the §112, first paragraph rejection have been considered and they are persuasive. Additionally, Applicant's amendment resolves the §112, second paragraph issues. Therefore the §112 rejections are withdrawn.

II. APPLICANT'S ARGUMENTS WITH RESPECT TO THE §103 REJECTIONS ARE NOT PERSUASIVE.

Applicant's response to the non-final rejection filed 9.19.2006 set forth two primary arguments. First, Applicant argues that the Mikkonen, Wang and Ma rejection is improper because Mikkonen teaches away from the claimed invention by disclosing an apparatus with different IP addresses. Applicant further argues that reducing Mikkonen's apparatus to a single IP address would destroy the purpose of fault tolerance and redundancy sought by Mikkonen's apparatus. Second, Applicant argues that the AAPA and Lelaure rejection and the Lelaure and Wang rejection are improper because Lelaure discloses a second basis unit with two addresses. Applicant's arguments concerning both rejections have been considered but they are not persuasive for the reasons set forth below.

- A. Mikkonen does not teach away from the claimed invention and modifying Mikkonen to include only a single IP address would not destroy its purpose.

Applicant argues that Mikkonen teaches away from the claimed invention by disclosing a single node having multiple IP addresses assigned to different interfaces at the node. Focusing on a single node, Applicant argues that the IP addresses of the interfaces are different from one another. While Applicant's characterization of Mikkonen's single node is accurate, the argument's reliance on the single node is misplaced because the analysis should focus on the two nodes taught in Mikkonen's system.

Mikkonen discloses a first node with an interface assigned an IP address IPA and a second node with an interface assigned an IP address IPA as well [Figure 1 «items 110a, 110e»]. The interface on the second node is inactive when the interface on the first node is active [column 3 «lines 35-39»]. Mikkonen clearly states that only one interface on the node is active at a time; so when the first node is active in the network, only its interface with the IPA address is active. If the first node's interface fails, then the interface with the same IP address (IPA) of the second node is activated. Interpreting Mikkonen's first and second nodes as corresponding to Applicant's claimed first and second basic units, Mikkonen's functionality is analogous to the claimed functionality of Applicant's apparatus whereby a first basic unit can be switched with a second basic unit when the first basic unit fails.

The difference between Mikkonen and the claimed invention is that Mikkonen discloses that there can be more than one address assigned to each node. It should be noted that this only conflicts with the claim language regarding the second basic unit. There is no claim language restricting how many addresses can be assigned to the first basic unit.

Ma was relied upon to teach the benefit of reducing the number of IP addresses assigned to Mikkonen's nodes to a single IP address rather than the multiplicity found in Mikkonen's invention. Ma expressly discloses that having multiple IP addresses "is undesirable, because registering IP addresses with a DNS is both costly and cumbersome, and the number of available IP addresses is limited" [column 2 «lines 50-53»]. Having a single IP address assigned to multiple devices "alleviates these problems by enabling a network administrator to configure and manage a group of switches using a single IP address" [column 2 «lines 56-61»].

Applicant argues that such a combination destroys Mikkonen's purpose of providing fault tolerance and redundancy. This argument is undercut by Ma's express teaching that providing redundancy and fault tolerance is still possible when using a single IP address assigned to multiple devices within a cluster (apparatus) [column 3 «lines 44-55»]. That is, Mikkonen's fault tolerance and redundancy goals are still maintained because Ma simply removes the additional IP addresses from Mikkonen's first and second nodes (IPB, IPC, IPD).

The proposed combination leaves Mikkonen with a single IP address, IPA, at both nodes which, according to Ma, is more desirable. Fault tolerance and redundancy is maintained because there are still two nodes that back each other up in case the other fails. Reducing the number of IP addresses does not affect the ability of Mikkonen's system to provide fault tolerance because Ma discloses that if the master switch in a cluster fails, a backup takes over but still has the same address as the master.

Therefore, contrary to Applicant's argument, the proposed combination would not result in destroying Mikkonen's purpose. The combination teaches assigning a single IP address to multiple devices while maintaining the ability to provide fault tolerance through the implementation of multiple relay nodes within a single relay apparatus. This functionality reads on Applicant's limitations as they are currently written.

B. Lelaure teaches the claimed limitation of setting into the second basic unit only the same network address as the first basic unit.

Applicant argues that Lelaure does not teach the limitation of setting the same network address into the second basic unit. Applicant points to the fact that Lelaure teaches two IP addresses, IP_s and IP_n. But Applicant's claim language does not proscribe interpreting Lelaure in a manner that reads on the claimed invention.

The language in question recites "a second basic unit into which only the same network address as that of said first basic unit is set." Nothing in this language proscribes the second basic unit from having a different network address *before* setting the same network address as that of the first basic unit into the second basic unit. Lelaure discloses that the second basic unit had an IP address of IP_s, when the first basic unit fails, the first basic unit's IP address is set into the second basic unit [column 1 «lines 36-40»]. This functionality reads on Applicant's claim because only the same network address as that of the first basic unit is set into the second basic unit, the previous IP address (IP_s) having been replaced by the same IP address of the first basic unit (IP_n) [column 3 «lines 26-39»]. More precisely, Lelaure discloses that the second basic unit only is set with one network address at a time; thus when the network address of the first basic unit is set into the second basic unit, *only* the same

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network address is set because the previous address (IPs) is no longer set into the second basic unit. Thus, as the claims are currently written, Lelaure reads on the claimed limitations.

III. CONCLUSION

For the foregoing reasons, Applicant's arguments were not persuasive. Applicant is encouraged to amend the claim to more clearly and precisely define the limitations as to the functionality of setting the network address into the first and second basic units. As currently written, the claim language only recites setting the same network address into the second basic unit; as interpreted by one of ordinary skill in the art, the language does not mandate that other addresses can be set into the second basic unit before the same network address is replaces them. As such, the claim rejections set forth in prior Office actions, filed on 9.19.2006 are maintained.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3> Claims 1-5, 7-9 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 1 is rejected for lacking proper antecedent basis: "the basic unit of a standby system." Nothing in the claim previously described a basic unit as a standby system.

b. Dependent claims are rejected as a result of their dependency on claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4> Since no claims were substantively amended by Applicant, no claims are specifically addressed in this section. The substance of these rejections can be found in prior Office actions, filed 9.19.2006, 4.17.2006 and 11.14.2005. Only the headings are reproduced here to reiterate the rejections.

5> Claim 1 is rejected under 35 U.S.C § 103(a) as being unpatentable over Mikkonen, in view of in view of Wang, in further view of Ma et al, U.S Patent No. 6.856.691 ["Ma"].

6> Claims 2-5, 7 and 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Mikkonen, Ma and Wang, in further view of Ould-Ali et al, U.S Patent No. 5.649.091 ["Ould-Ali"] and Li et al, U.S Patent No. 5.473.599 ["Li"].

7> Claims 8 and 9 are rejected under Mikkonen, Ma, Ould-Ali, Li and Wang, in further view of AAPA.

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8> Claims 15-17 are rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA, in view of Mikkonen, in further view of Ma.

9> Claim 18 is rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA, MA and Mikkonen, in further view of Wang.

10> Claim 19 is rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA, MA and Mikkonen, in further view of Ould-Ali.

11> Claim 1 is rejected under 35 U.S.C § 103 (a) as being unpatentable over Applicant's admitted prior art ["AAPA"], in view of Lelaure et al, U.S Patent No. 6.640.314 ["Lelaure"].

12> Claim 2 is rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA and Lelaure, in further view of Wang et al, U.S Patent No. 6.587.970 ["Wang"].

13> Claim 1 is rejected under 35 U.S.C § 103(a) as being unpatentable over Lelaure, in view of in view of Wang.

14> Claims 2-5, 7 and 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Lelaure and Wang, in further view of Ould-Ali et al, U.S Patent No. 5.649.091 ["Ould-Ali"] and Li et al, U.S Patent No. 5.473.599 ["Li"].

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15> Claims 8 and 9 are rejected under Lelaure, Ould-Ali, Li and Wang, in further view of AAPA.

16> Claims 15-17 are rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA, in view of Lelaure.

17> Claim 18 is rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA and Lelaure, in further view of Wang.

18> Claim 19 is rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA and Lelaure, in further view of Ould-Ali.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Murono et al, U.S Patent No. 5.793.769;

Adelman et al, U.S Patent No. 6.006.259;

Dobbins et al, U.S Patent no. 6.249.820;

Tsukakoski et al, U.S Patent No. 6.496.510;

Matsukawa, U.S Patent No. 6.810.010;

Lundbäck et al, U.S Patent No. 6.912.590.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

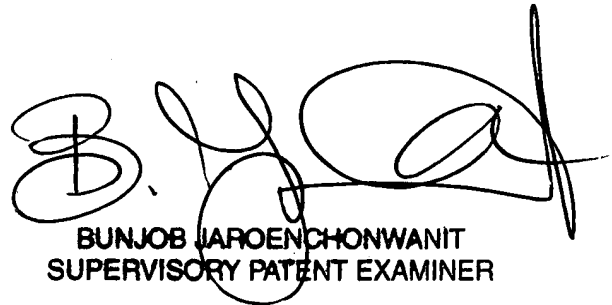
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Tuesday-Friday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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